

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems</b>	)	<b>CC Docket No. 94-102</b>
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	)	
<b>Vonage Petition for Declaratory Ruling</b>	)	<b>WT Docket No. 03-211</b>
	)	

**To: The Federal Communications Commission**

**EX PARTE COMMENTS AND INITIAL COMMENTS OF THE TEXAS COMMISSION  
ON STATE EMERGENCY COMMUNICATIONS AND TEXAS EMERGENCY  
COMMUNICATION DISTRICTS**

The Texas Commission on State Emergency Communications and certain Texas Emergency Communication Districts (hereinafter referred to collectively as the "Texas 9-1-1 Agencies")<sup>1</sup> file these *ex parte* comments to the Further Notice of Proposed Rulemaking

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<sup>1</sup> TX-CSEC is a state agency created pursuant to Texas Health and Safety Code Chapter 771. The Texas Emergency Communication Districts are Bexar Metro 9-1-1 Network, Brazos County Emergency Communication District, Calhoun County 9-1-1 Emergency Communication District, DENCO Area 9-1-1 District, Emergency Communications District of Ector County, Galveston County Emergency Communication District, Greater Harris County 9-1-1 Emergency Network, Henderson County 9-1-1 Communication District, Howard County 9-1-1 Communication District, Kerr County Emergency 9-1-1 Network, Lubbock County Emergency Communication District, McLennan County Emergency Communication District, Medina County 9-1-1 District, Midland Emergency Communications District, Montgomery County Emergency Communication District, Wichita-Wilbarger 9-1-1 District, Potter-Randall County Emergency Communication District, Smith County 9-1-1 Communications District, the Tarrant County 9-1-1 District, and Texas Eastern 9-1-1 Network. These districts were created pursuant to Texas Health and Safety Code Chapter 772.

(“FNPR”) released on December 20, 2002 in CC Docket No. 94-102 and these initial comments in response to the September 26, 2003 Public Notice on Vonage’s Petition for Declaratory Ruling on the decision of the Minnesota Public Utilities Commission, which imposed specific E9-1-1 requirements on Vonage.

The Texas 9-1-1 Agencies, as they requested in their March 25, 2003 reply comments to the FNPRM, again respectfully request that the Commission establish a specific expedited proceeding to address technically feasible and appropriate E9-1-1 requirements for Voice over the Internet Protocol (“VoIP”) services.<sup>2</sup> Since the Commission released and sought comment on the FNPRM in CC Docket No. 94-102 several significant events have occurred, or are occurring, that make it even more imperative and appropriate for the Commission to open a specific proceeding now to further protect the integrity of our 9-1-1 system.

First, as Vonage itself has noted in ex parte meetings related to its declaratory petition, Vonage has been trying to work cooperatively with some public safety agencies (including some of the Texas 9-1-1 Agencies) on technical trials of E9-1-1 enhancements to its VoIP service. Second, as Vonage pointed out in its petition for declaratory ruling, there appears to be a strong potential for obstacles with Local Exchange Companies (similar to what initially occurred when wireless carriers began needing to interface with the 9-1-1 system) that would benefit from the

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<sup>2</sup> In their March 25, 2003 reply comments to FNPR in CC Docket No. 94-102, the Texas 9-1-1 Agencies requested that the Commission expedite addressing “the rules for Voice over the Internet Protocol (VoIP”) services currently being marketed to consumers, including residential consumers without any 9-1-1 and/or E9-1-1 service.” Texas 9-1-1 Agencies’ March 25, 2003, Reply Comments at p. 3. The Texas 9-1-1 Agencies further urged that “[i]f the Commission concludes that state public utility commissions do not have jurisdiction to require ... VoIP providers to provide and comply with E9-1-1 requirements, the FCC should act promptly to protect public safety and the reasonable expectation of consumers that local voice service includes E9-1-1 emergency service.” Texas 9-1-1 Agencies’ March 25, 2003, Reply Comments at p. 4.

Commission's oversight and strict scrutiny.<sup>3</sup> Third, the uncertainty that has been created by the conflicting decisions of the Minnesota Public Utilities Commission and the Minnesota federal court may make resolution of potential E9-1-1 LEC interface issues for VoIP providers more difficult to address at the state jurisdictional level and may needlessly delay the implementation of currently technically feasible E9-1-1 enhancements for VoIP services. Fourth, the Commission's jurisdiction to address the E9-1-1 requirements for VoIP services is consistent with the relief requested by Vonage in its petition for declaratory relief because Vonage notes that a ruling on its petition would be subject to any FCC rules from the FNPRM.<sup>4</sup> From a public safety prospective, a specific, expedited FCC proceeding on E9-1-1 solutions for VoIP service moves the focus and efforts from the legal battles toward working cooperatively on the expedited implementation of the technically feasible and appropriate E9-1-1 solutions for VoIP providers.<sup>5</sup>

The Texas 9-1-1 Agencies respectfully submit that all these recent circumstances and the potential benefits for public safety further demonstrate the need for the Commission to establish

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<sup>3</sup> Vonage argues in its petition for declaratory ruling:

Further, Vonage is unable to provide "comparable" service without the ability to interconnect to incumbent LEC E911 trunks. As this Commission is already aware from its efforts to promote wireless 911 access, the incumbent LEC networks serve as a significant obstacle to the integration of new technologies with existing 911 network. ... The observations apply with equal force to the problem of integrating VoIP providers into the 911 network. Clearly, this is a national issue that should be addressed in a consistent manner nationwide.

Vonage Petition at pp. 25-26.

<sup>4</sup> Vonage pointed out in its petition for declaratory ruling that "the FCC is directly considering the issue of what, if any, 911 obligations are appropriate for VoIP providers, and acknowledges that a ruling in this proceeding would be subject to any future rules the Commission may adopt." Vonage Petition at p. 25.

<sup>5</sup> Vonage pointed out in its petition for declaratory ruling that it "is not seeking to prevent States from protecting public safety through reasonable and feasible 911 requirements." Vonage Petition at p. 24.

a specific, expedited proceeding now to address technically feasible and appropriate E9-1-1 requirements for VoIP services. Accordingly, the Texas 9-1-1 Agencies again respectfully request that the Commission establish such a specific proceeding at the earliest possible time.

Respectfully submitted,

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Certificate of Service

I certify that a copy of these comments is being served on October 27, 2003 by regular or overnight mail or fax on the required parties.

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Richard A. Muscat.

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